

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: **Ronal A Beyernick et al.** ;

APPLICATION SERIAL NO.: **10/766,651** : Examiner: Aradhana Sasan

FILING DATE: **January 27, 2004** : Group Art Unit: 1609

**TITLE: Method For Making Homogeneous Spray-
dried Solid Amorphous Drug Dispersions
Utilizing Modified Spray-drying Apparatus**

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO COMMUNICATION

The present reply is in response to the communication mailed April 23, 2007. In response thereto, Applicants submit the following remarks.

Claims 22-43 are pending in the present application.

1. **Double Patenting Rejection**

Claims 22-43 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 21 in view of claims 1, 7-16, 17-20 of U.S. Patent No. 6,763,607. Applicants submit herewith a terminal disclaimer. Withdrawal of this rejection is hereby requested.

2. **Claim Rejection under 35 USC 103(a)**

Claims 22-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curatolo et al. US2002/0103225 (filed 07-30-2001 and published 08-01-2002). The present application is a divisional of 10/353,746 filed 01-28-2003 which claims priority from U.S. Provisional Application No. 60/354,080 filed 02-01-2002. Since the priority document for the present application (02-01-2002) was filed before the publication (08-01-2002) but after the filing date (07-30-2001) of the Curatolo reference, Curatolo may be available as a 102(e) type reference. As such, 35 U.S.C. 103(c) applies. At the time that the present invention was made, the present application and the Curatolo reference were subject to an obligation of assignment to the same person. As a result, Applicants respectfully request withdrawal of this rejection.